

Appl. No. 10/040,177
Amdt. Dated June 22, 2004
Reply to Office Action of March 26, 2004

Attorney Docket No. 81784.0245
Customer No.: 26021

REMARKS/ARGUMENTS

Claims 1-8 were pending in the application. By this amendment, claim 2 is being cancelled and the limitations thereof are being added to claim 1. Also, the claims are amended as necessary to overcome the rejection thereof on formal grounds. No new matter is involved.

In paragraph 2 on page 2 of the Office Action, claim 2 is objected to because of the recitations "read-in" and "read-out". Claim 2 is being cancelled and the limitations thereof are being added to claim 1. In adding such limitations, the objectionable recitations are being corrected.

In paragraph 4 on page 2 of the Office Action, claims 2 and 4 are rejected under 35 U.S.C. § 112, 2nd paragraph, as being indefinite. More particularly, the recitations "said first trial writing region" and "the read signal level" are said to have insufficient antecedent basis, and the reference to "trial writing region" is said to be unclear. In adding the limitations of claim 2 to claim 1, the recitation "first" is being eliminated so that such language refers to "said trial writing region", as it is previously introduced in claim 1. In claim 4, the recitation "the read signal level" in the last line thereof is being rewritten in order to read "the signal level of the signal read by said pickup" in order to correspond to the previous recitation of "the signal read by said pickup" in claim 1. As so amended, claims 1 and 4 should now be clear and definite. The reference to "trial writing region" refers to the region on an inner peripheral side of the optical disk on which the test data is written, in addition to writing said data on an outer peripheral region outside a data writing region. Again, claims 1 and 4 are submitted to be clear and definite as amended herein.

In paragraph 7 on page 3 of the Office Action, claim 1 is rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. application 2002/0003760 of Honda. In paragraph 9 on page 4 of the Office Action, claims 1 and 3-6 are rejected under 35

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U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,618,334 of Yamamoto in view of Miyata (U.S. Patent 6,052,347). In paragraph 11 on page 8 of the Office Action, claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto and Miyata, and further in view of Lee (U.S. Patent 6,404,712) or Kim (U.S. Patent 6,646,965). In paragraph 12 on page 9 of the Office Action, claims 3-6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyata and further in view of Yamamoto. In paragraph 13 on page 10 of the Office Action, claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto and Miyata and further in view of JP 58164059A of Inaba. In paragraph 14 on page 11, claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamamoto and Miyata and further in view of U.S. Patent 4,788,672 of Toyooka. These rejections are respectfully traversed, particularly in view of the fact that Honda and Yamamoto are not good references against the present application.

In the case of Honda, such reference has a U.S. filing date of May 23, 2001. However, the May 23, 2001 filing date of Honda is preceded by the November 15, 2000 priority date of the present application. Applicant is enclosing a certified translation of the prior application in order to perfect applicant's priority claim. That being the case, Honda is no longer effective as a reference against the present application, and the rejection of claim 1 as anticipated by Honda is no longer proper.

With respect to Yamamoto, this reference is commonly owned with the present application. Yamamoto was filed in the U.S. on November 1, 2000, which is earlier than the priority date of the present application, and issued as a patent on September 9, 2003, which is later than the U.S. filing date of the present application. Claims 1-8 are rejected under 35 U.S.C. § 103(a) based on Yamamoto in combination with one or more of the other references. Such rejections rely on 35 U.S.C. § 102(e). 35 U.S.C. § 103(c) provides that subject matter developed by

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another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of § 102 of this title, shall not preclude patentability under this section where the subject matter on the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. Consequently, the commonly owned patent of Yamamoto is not a proper reference and should not be applied in rejecting the claims.

In paragraph 6 on page 3 of the Office Action, claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 6,052,347 of Miyata. In paragraph 10 on page 7 of the Office Action, claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyata and further in view of U.S. Patent 6,404,712 of Lee or U.S. Patent 6,646,965 of Kim. These rejections are respectfully traversed, particularly in view of the fact that claim 2 has been cancelled and the limitations thereof have been added to claim 1.

As so amended, claim 1 defines a laser output circuit for an optical disk recording apparatus in which test data is written onto an outer peripheral (lead-out) region outside a data writing region. Use of an outer peripheral (lead-out) region outside the data writing region, namely a region which is not used in recording of data signals in order to set laser outputs, is neither shown nor suggested by any of the Miyata, Lee and Kim references. Consequently, claim 1 is submitted to clearly distinguish patentably over such art.

Claims 3-8 depend, directly or indirectly, from claim 1, and contain all of the limitations thereof, so that such claims are also submitted to clearly distinguish patentably over such art.

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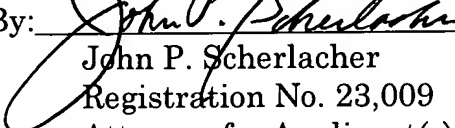
In conclusion, claims 1 and 3-8 are submitted to clearly distinguish patentably over the art for the reasons discussed above. Therefore, reconsideration and allowance are respectfully requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6846 to discuss the steps necessary for placing the application in condition for allowance.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,
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